

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.4589 OF 2024

Bhanudas Dnyandeo Gadge & Ors.

... Petitioners.

V/s.

Chief Executive Officer, SRA & Ors.

... Respondents.

Mr. Ajinkya Udhane, a/w Adv. H.D. Chavan for the Petitioners.

Mr. Yogesh Vijay Patil, i/by Mr. Abhijeet Patil for Respondent Nos.1 and 2.

Mr. Madhur Surana, a/w Adv. Mrunal S. for Respondent No.3.

Ms. Manisha Gawde, AGP for Respondent No.5-State.

CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.DATE : 4th March 2025.**P.C.:-**ASHWINI H
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Date: 2025.03.11
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1) By the present Petition under Article 226 of the Constitution of India the following substantive prayer is made.

“(b) This Hon’ble Court by way of its appropriate writ, order or direction may kindly be pleased to direct the Respondent No.1 and 2 to act upon the findings recorded by them in their letter dated 05th January, 2019 and initiate suitable civil/criminal legal action against the Respondent No.3 and its partners and architect and all those who have perpetuated the violation of sanctioned plan and OCC plan dated 31/05/2017 and restore the building in terms of sanctioned plan.”

2) At the outset, Mr. Surana, learned Advocate appearing for Respondent No.3 submitted that, the notice dated 5th January, 2019 issued

by Respondent No.2 has no legal sanctity. That the Respondent No.3 has already completed the construction of subject building and the Respondent No.2-BMC has issued full Occupation Certificate on 31st May, 2017 itself. The Assistant Registrar, Cooperative Societies, SRA has registered the flat purchasers Cooperative Housing Society as Revathi Apartments CHS Ltd. and has issued Registration Certificate on 8th September, 2017. He submitted that, Mr. Kundalik S. Waghule, Partner of M/s. Revathi Construction has affirmed Affidavit dated 5th January, 2023.

3) In view of the above, it appears to us that the Petitioners wants to take legal action against the occupiers of the respective flats who have allegedly committed an act as contemplated under Section 53 of the MRTP Act. Petitioner therefore is at liberty to pursue his remedy with the BMC or any other competent authority or a statutory authority as may be permissible under the law.

4) As we expressed our displeasure for filing such a frivolous Petition without impleading the necessary party i.e. the Brihan Mumbai Municipal Corporation ('BMC'), learned counsel for the Petitioners on instructions submitted that, he will withdraw the Petition and he will pay cost of Rs.10,000/- to the High Court Employees Medical Welfare Fund at Mumbai within a period of two weeks from the date of uploading of the present Order on the official website of High Court of Bombay. The said statement is accepted as undertaking given to this Court.

The account details are as under:-

Account Name	:	The High Court Employees Medical Welfare Fund at Mumbai.
Account Number	:	000120110001337.
Bank Name	:	Bank of India
Branch Name	:	Mumbai (Main)
IFSC Code	:	BKID0000001.

5) Petition is accordingly dismissed with aforesaid liberty.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)